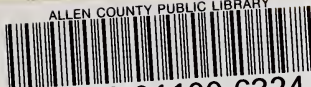


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MASSACHUSETTS AND MAINE,

THEIR

UNION AND SEPARATION.

A PAPER READ BEFORE THE AMERICAN ANTIQUARIAN SOCIETY, AT THE
SEMI-ANNUAL MEETING, HELD IN BOSTON, APRIL 24TH,
1878, BY HON. P. EMORY ALDRICH.

Releg. Emory Aldrich, d. 1895

FROM THE PROCEEDINGS OF THE SOCIETY.

WORCESTER:
PRESS OF CHAS. HAMILTON,
CENTRAL EXCHANGE.
1878.

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Aldrich, Peleg Emory, *d.* 1895.

Massachusetts and Maine, their union and separation.
A paper read before the American antiquarian society,
at the semi-annual meeting, held in Boston, April 24th,
1878, by Hon. P. Emory Aldrich ... Worcester, Press of
O. Hamilton, 1878.

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SHAW CARD

"From the Proceedings of the society."

1. Maine—Pol. & govt. 2. Massachusetts—Pol. & govt. I. American
antiquarian society, Worcester, Mass.

MASSACHUSETTS AND MAINE,

THEIR UNION AND SEPARATION.

FOR more than one hundred years prior to the adoption by the States of the Federal Constitution, Maine had been a component part of Massachusetts. It would be quite aside from the design of this paper to trace minutely the several steps and controversies which resulted in establishing the jurisdiction of Massachusetts over Maine, and the union of that Province with "Massachusetts Proper." It will be sufficient for present purposes to state, that as early as 1652 the government of Massachusetts claimed, under its charter, jurisdiction over Maine as included within the limits of that charter, and although this claim was resisted for a time by the inhabitants of Maine, they at length submitted to it in 1658.

But not many years after, that is, in 1662, opposition to the government again manifested itself in open hostility. About that time Commissioners were appointed by the King of England to determine the rights of Massachusetts over Maine. These Commissioners, by their proclamation issued June, 23d, 1665, declare that, "In the name of his Majesty, we require and command all the inhabitants of this Province (of Maine) to yield obedience to said Justices (who had been appointed by the Commissioners), acting according to the laws of England as near as may be. And in his Majesty's name, we forbid, as well the Commissioners of Mr. Gorges as the Corporation of Massachusetts Bay, to

molest any of the inhabitants of this Province with their pretences, or to exercise any authority within this Province, until his Majesty's pleasure be further known, by virtue of their pretended rights." This did not leave matters in a condition satisfactory, either to the inhabitants of Maine, or to the government of Massachusetts. The latter continued to assert its rights, and many of the former, by petition to the king, and otherwise, manifested a wish to remain under its jurisdiction.

In 1676, under proceedings instituted by the enemies of Massachusetts in England, the jurisdiction of Massachusetts over Maine and New Hampshire was annulled, and these Provinces were restored to the heirs of Gorges and Mason. Thereafter, in 1678, Massachusetts acquired from Ferdinando Gorges, grandson and rightful heir of Sir Ferdinando Gorges, title to the whole Province, from the Piscataqua to Sagadahoc, for twelve hundred and fifty pounds. But even this did not place the right of Massachusetts beyond controversy, until it was finally settled by the charter of 1691, which not only included the Province of Maine, but the more distant Provinces of Sagadahoc and Nova Scotia. It is a fact too well known, perhaps, to require the statement here, that what was called from time to time the Province of Maine, was not coterminous with the present State of Maine.

After this union of the two portions of the Commonwealth had existed nearly a century, and soon after the close of the Revolutionary War, the question of a separation and the establishment of Maine as an independent State of the Confederacy began to be agitated.

The schemes for the formation of a new State did not all embrace the whole territory of the District of Maine. The first movement for the organization of an independent State occurred in the year 1785.

The separation of the territory east of the Piscataqua was much discussed among the people during the years

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1784-5. This discussion led to the publication of the following notification in the *Falmouth Gazette* of September 17th and October 1st, 1785:

“Agreeable to a request made and signed by a large and respectable number of persons to the printers of this *Gazette*, the inhabitants of the three counties of York, Cumberland and Lincoln are hereby notified, that so many of them as are inclined, or can conveniently attend, are requested to meet at the meeting-house of the Rev. Messrs. Smith and Deane, in Falmouth, on Wednesday, the fifth day of October next, to join in a conference, then and there to be held, on the proposal of having the said counties erected into a separate government.”

This, it is believed, was the first public act in a long series of acts looking to the same end, and which thirty-five years afterwards terminated in the admission of Maine as one of the States of the Federal Union.

In response to the foregoing notification, thirty-seven persons from Falmouth (now Portland) and vicinity met at the time and place designated. After some preliminary discussion, a committee was appointed to prepare and send a circular letter to the several towns and plantations within the three counties, requesting them to send delegates to a convention to be held on the first Wednesday of January, 1786. Upon the assembling of this convention, Hon. William Gorham was chosen president, and Stephen Longfellow, Jun., clerk. Little more was done than to choose, and hear the report of, “a committee of nine to make out a statement of the grievances the three counties labor under, and also an estimate of the expense of a separate government, and compare the same with the expense of the government we are now under.” After accepting the report of the committee, and ordering that it should be signed by the president of the convention and transmitted to the several towns and plantations, the convention adjourned to the first Wednesday of September, 1786. The following is a summary of the grievances complained of, viz:

1. That from their (the said counties) local situation,

their interests are different and cannot be properly attended to and promoted in their present connection.

2. That the General Court of Massachusetts being so large, and their business so various, unavoidably renders it inconvenient and expensive to the inhabitants of these counties, both with regard to their members at Court and suitors for justice.

3. That applications to the supreme executive are attended with great expense.

4. That the business of the Supreme Judicial Court, from the extent of territories, is so great as to make a proper arrangement in that department difficult.

5. That the present regulations of trade operate unequally, and against these counties, by reducing the price of lumber.

6. That a considerable part of the inhabitants of these counties are deprived of a vote in the House of Representatives, where all money bills originate, and there appears to be no prospect of a speedy relief.

7. That the present mode of taxation, by polls and estates, is very injurious to this territory, as the inhabitants cannot be employed to the same advantage, and their stocks are not so profitable, nor can their lands be so advantageously improved, as in the other part of the Commonwealth, where they enjoy a milder climate.

8. That the excise and impost acts operate grievously on the inhabitants of these counties, as they have not in general the advantage of orchards; and the keeping of sheep is difficult and expensive, by the hazard of wolves and other beasts of prey; and the great length of their winters.

9. That the Act imposing a duty on deeds operates unequally, by reason of the more frequent conveyances of real estate in a new country, than in old settled countries.

10. That the necessary attendance upon the State treasury is inconvenient, expensive and grievous.

The committee express the opinion that a separate gov-

ernment may be adopted by the three counties, whereby a large part of the expense then paid by them might be saved.

It will be observed that several of the causes enumerated in favor of a separate government, were temporary in their nature, and such as would be removed by ordinary legislation and the necessary progress of the country in wealth, population and general improvement. And some other of the Acts complained of, such as those regulating trade, were afterwards found and admitted to have been beneficial to the material interests of the district. But these alleged grievances have been given here as forming the opening chapter in the long discussion of thirty-five years, which terminated in the establishment of a sovereign and independent State—a discussion which, so far as the two sections of the Commonwealth and the principal actors on both sides were concerned, was conducted with great ability, and in a spirit of fairness suitable to a great cause, and worthy of men fit to be called statesmen, and not in a spirit engendered by petty personal considerations which are so apt to influence the private and public conduct of the ambitious politician who is not a statesman.

The final vote of the convention of January, 1786, before its adjournment, was that the report of their committee, above given, should be signed by their president and transmitted to the several towns and plantations in the three counties aforesaid, requesting them to choose delegates to meet in convention at Falmouth, on the first Wednesday of the following September.

The convention of January, 1786, having adjourned to the first Wednesday of September following, and also requested their constituents to elect delegates to a new convention to meet at the same time and place, the result was that when the time arrived there were two conventions assembled at Falmouth. The difficulty was soon solved, however, by the new convention electing the officers of the

former convention, and the two conventions uniting into one. This convention published an address to the people, in which they say: "The end of government is the good of the people—the only design of its institution is to secure to them, as far as possible, the blessings of life. We, therefore, in justice to our constituents, ourselves, to the good citizens of the three counties, and of the Commonwealth at large, address you upon the subject; and transmit to you a form of a petition to the general court, requesting them to relinquish all right of jurisdiction in this eastern territory, and to give their consent that the same may be formed into a separate State."

Upon the question whether the petition for separation "*shall now be presented to the Legislature*" the convention voted, "that as there are a number of respectable towns in the counties of York, Cumberland and Lincoln, that have not certified to the convention their determination of a separate State, and as the Commonwealth in general is at this time in a perplexed state, and this convention being unwilling to do anything that shall seem to lay any greater burden on the General Court, therefore it is the opinion of this convention to postpone petitioning for a separation at present."

This vote was subsequently reconsidered by a majority of fifteen to thirteen, and it was left in the hands of a committee, with discretionary power to retain, or present the petition to the General Court then in session, as they saw fit. In their address to the people the convention "Earnestly recommend to the selectmen of towns and committees of plantations to notify public meetings for the purpose, (of ascertaining the wish of the people on the question of separation), and to the clerks of the several towns and plantations, that they be particular in making returns of the number of votes for and against separation."

The historian of the period says, no returns were ever made in compliance with this notification, and that the con-

vention adjourned from time to time with ever diminishing numbers, and that at the last adjournment three of the Portland members were the only delegates present. "One of these was chosen president *pro tempore*, and another clerk, and the third made a motion for another adjournment, but as there was no one present except the president and clerk to second the motion, the convention expired." And thus ended the first attempt at separation. There were discontented persons enough to provoke discussion, to call public meetings and assemble conventions, but it is quite evident there was at that time no general desire among the people for a new State.

The perplexed state of the Commonwealth alluded to in the foregoing vote of the convention, grew out of the then prevailing insurrectionary movements in the interior and western portions of the State. Upon this subject of the supposed complication of the scheme for the separation of Maine from Massachusetts Proper, with the Shays' Rebellion, and the adoption of the Federal Constitution by Massachusetts, the following extracts from letters of two of the conspicuous friends of that constitution, possess some interest and seem worthy of quotation in this connection:

James Madison, writing to Washington, from New York, under date of January 20, 1788, says: "The intelligence from Massachusetts begins to be very ominous to the Constitution. . The anti-federal party is reinforced by the insurgents and by the Province of Maine, which apprehends greater obstacles from the new system than may be otherwise experienced." And Dr. Benjamin Rush, writing from Philadelphia, January 29, 1788, to Timothy Pickering, who, after serving his country with great fidelity and distinction throughout the Revolutionary war, was then trying to live peaceably as a farmer among the turbulent spirits of the Wyoming Valley, says: "The papers will give you an account of the progress of Federal principles and events; Massachusetts is much divided, owing to the Province of

Maine uniting with the insurgent counties." But whatever may have been the appearance of things at the times and places at which these letters were written, the impartial student of that period of our history must, I think, conclude, that neither the principal actors in the work of separation, nor the great body of the people of Maine of that day, were disposed to engage in any rebellious opposition to constitutional government, or to take any undue advantage of the troubled state of public affairs to accomplish their favorite object of establishing an independent State. A majority of the delegates from the District of Maine, in the Massachusetts convention, called to act upon the Federal Constitution, voted in favor of adopting that Constitution. There were indeed men in the Falmouth or Portland convention of 1786-7, who, in view of the embarrassments the State government was then experiencing, said, in substance, "Now is our golden opportunity. The Legislature is now distressed with care and trouble; if we apply to them at this time, they will not dare to refuse our request, and if they do, we can drive them into compliance by threatening to join in the insurrection." But the words and acts of such men are not to be reckoned among the permanent forces out of which States arise or are preserved.

The man whose conduct is directed by personal considerations, or by limited and narrow views of seeming present expediency, may gain little or much notoriety, but it is only those who connect their names and deeds with the great laws and forces that regulate the progress of the race and the course of empire, that will be long remembered and revered as benefactors of mankind, or be reckoned among the honored founders of States and Commonwealths.

After the dissolution of the convention at Portland, as before stated, no further public discussion of the question of separation seems to have occurred till 1791, when an "address to the inhabitants of Maine upon the subject of separation from the present government, by one of their fel

low-citizens," was published. The address bears date, April, 1791, and is dedicated to Rev. Samuel Deane, D.D., Fellow of the American Academy of Arts and Sciences. The author begins by saying, "the separation of the District of Maine from the present government of Massachusetts, is a subject which from the year 1785 to 1788 occupied much of the public attention; that there is reason to conclude that in 1787 a government in the territory would have been agreeable to a majority of its inhabitants, but for the then disturbed state of public affairs; that the adoption of the Federal Constitution makes separation more desirable; that government established with us will be the means of changing for the better the present melancholy state of religion and learning among us; that there is not much reason to fear that the consent of the Legislature will be withheld; that one immediate effect of our dismemberment will be the removal of the seat of government to the town of Worcester, a project often talked of, and which would be favored by Worcester, Hampshire and Berkshire counties."

This address, however unsound and erroneous some of its reasoning may have been, apparently turned public attention again to the subject, as is shown by the resolve which was passed by the Massachusetts Legislature, March 6, 1792, viz:—

"Whereas, it has been represented to the Legislature, in a memorial signed by the Hon. Nathaniel Wells, and others, Senators and Representatives of the District of Maine, that the inhabitants of York, Cumberland, Lincoln, Hancock and Washington contemplate the formation of the counties aforesaid into a State, with the consent of this Commonwealth. In order that the real sense of said inhabitants may be known on this important subject,

Resolved, That the selectmen, or any other officers who are by law authorized to call meetings of the inhabitants of any town, district or plantation, within the counties aforesaid, be and are hereby authorized and empowered to issue a regular notification to the inhabitants of the several towns, districts and plantations to convene, on the first Monday of May next, for the purpose of giving their votes on the proposed separation. And the clerks

of the several towns, &c., are required to make true returns of the votes for and against separation, into the office of the Secretary of State, on or before the second Monday of said May."

The decision of the people was adverse to the projected separation—the vote being, yeas 2074, nays 2525. But again, in October, 1793, a meeting of several gentlemen, from various parts of the District, attending court at Portland, made arrangements for calling a convention, to meet in December following. Of this December convention Daniel Carey was elected president. Fifteen towns only were represented. Little more was done than to recommend the holding of another convention at Portland, in June, 1794, to consider the expediency of erecting the *three* counties of York, Cumberland and Lincoln into a State. In this convention only fourteen towns and three plantations were represented, by twenty-five delegates. No decisive action was taken, and the convention adjourned to the second Tuesday of October, 1794. At this time twenty towns were represented by delegates in the convention. Resolutions were passed favoring the formation of a new State, and a committee was chosen to prepare an address to the people, and an invitation to all incorporated towns to send delegates to the convention at its adjournment to January, 1795. In January, the address to the people, reported by the committee, was adopted, and the people were therein requested to act upon the question of separation at their April or other annual meetings, and return their votes to the adjourned meeting of the convention. No general response was made to this invitation, conclusively showing that there still was no prevailing wish among the people for the dissolution of a union, which had existed too long, and been found too beneficial, to be easily broken up. In Portland, where the convention was held, so little interest was taken in the subject, that the vote at the May meeting was 19 only in favor, and 10 against separation.

In one of the above-mentioned conventions, called to consider "the expediency of erecting the five eastern counties, commonly called the District of Maine, into a separate government," it was

"*Resolved*, 1. That in the opinion of the convention, the great extent of the five eastern counties has heretofore operated as an objection against the forming of a separate State; and it doth not appear that they are, at this time, united in the measure.

2. That the counties of Hancock and Washington have manifested no inclination to separate themselves from the present government.

3. That a majority of Cumberland and Lincoln wish a separation, and that they, with York, are sufficiently extensive and populous for a distinct State."

These, and other causes arising from these, are assigned by the convention of January, 1795, for again, so soon, asking the people to pass upon the question of forming a new State, after their rejection of the same by their vote of May, 1792.

No further movement towards separation took place till 1797, when a number of petitions were presented to the Legislature, praying that the question might be again submitted to the test of a popular vote. The Legislature, acting upon these petitions, passed a resolve March 2, 1797, authorizing the inhabitants of the District, at public meetings to be held for that purpose, on the second Wednesday of May following the date of the resolve, to vote upon the question: "Shall application be made to the Legislature for its assent that the District of Maine may be erected into a new State?" The vote showed that a majority of the voters was still opposed to separation. From this time the matter rested nearly ten years, when, in 1806, there was a renewal of the discussion, though no action was taken upon the subject by conventions or other general meetings of the people. But in response to an application to the Legislature by a number of Senators and Representatives from the District, a resolve was passed fixing the first Monday of

April, 1807, for the people again to vote upon the question of separation. From one hundred and fifty towns from which returns were received, the vote stood, in favor of separation 3370, against it 9404. This decisive expression of the popular will put the question at rest till after the close of the war of 1812. During the progress of that war the coasts and frontier towns were seriously annoyed by the public enemy, and the want of a local State government was severely felt. Accordingly, soon after the close of the war, public meetings were held in various parts of the District, and great exertions were made to arouse and unite the people upon measures for the organization of an independent State government. The society called "the Union Society," established in June, 1815, in a circular sent by it into every town of the District, said: "In our exertions for the general good of our country, we must keep an eye to the separation of Maine from Massachusetts. The subject will soon be spread before the people."

Petitions were again presented to the Legislature, and by that body were referred to an able committee, which, after a hearing and maturely considering the subject, reported a resolve, which was passed by the Legislature, submitting the following question to the voters in the several towns and plantations of the District, viz: "Shall the Legislature be requested to give its consent to the separation of the District of Maine from Massachusetts Proper, and to the erection of said District into a separate State?"

Certificates of the votes were to be returned to the Secretary's office on or before the second Wednesday of the next session of the General Court. The whole number of votes returned was 16,894, of which 10,393 were in the affirmative, and 6501 in the negative. The whole number of voters in the District at that time was 37,858. Upon this state of the popular vote the Legislature passed an Act June 20, 1816, providing for the separation and establishment of Maine as an independent State, upon the terms and

conditions set forth in the Act itself. The provisions of the Act were satisfactory to the friends of separation.

The Act, among other things, provided, that one half of the public lands lying within the District should belong to the new State; that it should have one-fourth of the money that might be received from the United States for expenses incurred by the State in its defence during the then late war. Section second provided for the election of delegates to a constitutional convention, to meet at Brunswick, on the last Monday of September, 1816, and that at the same meeting, held for the election of delegates, the voters should be requested to give in their votes upon the following question, viz: "Is it expedient that the District of Maine shall be separated from Massachusetts, and become an independent State?" the certificate of votes to be returned to the convention, and if it shall appear to said convention that a majority of *five to four*, at least, of the votes returned, are in favor of said District becoming an independent State upon the terms and conditions set forth in the Act, said convention shall proceed to form a constitution as provided for in this Act.

The whole number of votes which the convention thought proper to admit (some were rejected for informalities), was 22,316; of these, 11,969 were in favor of separation, and 10,347 opposed. This state of the vote, as will appear at a glance, did not give the requisite majority of "five to four." But the committee of the convention having the subject in charge, adopting a novel and wholly indefensible construction of the Act, made out the requisite majority in the following manner:

They ascertained that the aggregate majority of yeas in towns voting *for* separation was 6,031—the aggregate majority of nays in towns voting *against* separation was 4,409. Hence the committee proceed to reason "as five is to four, so is 6,031 to 4,825, the nays required by the Act. But the majority of nays is only 4,409. Thus it appears,

upon this construction of the Act, there is a majority of *five* to *four*, at least, of the votes returned in favor of said District becoming an independent State."

The convention adopted in substance this report of the committee, and proceeded, against the written and formal protest of about one-third of the members, to form a constitution. The doings of this convention were submitted to the Legislature for confirmation at its session in December, 1816.

The subject was referred to a committee of the Legislature of which Hon. Harrison G. Otis was chairman.

This committee, in its report, after stating the facts, proceeded to say:—

"Upon this statement, the committee have no hesitation in expressing their full conviction that the convention have misconstrued the Act by which their powers were defined. That the word 'majority' refers to a majority of the votes returned, and not to the aggregate of local and municipal majorities. That this is a self-evident position, resulting from a perusal of the Act, and not susceptible of illustration or contravention by any argument. That of consequence, the contingency, provided for by the Act as prerequisite to the formation of a constitution, and as a condition of the consent of the Legislature to the separation of Maine, has not occurred; and that the powers of said convention are at an end. It is not less evident to the minds of your committee, that this Legislature is not competent to enlarge, vary or revise the powers of the delegates to that convention. These powers, though *defined* and *prescribed* by the Legislature, were vested in each delegate by his own immediate constituents. * * *

Having disposed of this inquiry, your committee have in the next place directed their attention to the several memorials presented by deputies from the Brunswick convention, and by a number of the Senators and Representatives from the District of Maine. The object of these memorials, except the protest of the minority of the convention, is either to obtain the consent of this Legislature to a separation upon the present majority, or to such further provisions as may be expedient for consummating that event."

The committee, after showing that it would not be just or safe to act upon the basis of the doings of the Brunswick convention, proceed to say:—

"There remained, therefore, to be considered, the expediency,

merely, of adopting some new measures to facilitate the expression of the sense of the people of Maine upon the great question.

In arriving at a result upon this point satisfactory to themselves, the committee have excluded all considerations affecting the propriety or necessity of separation, viewed as an abstract and original proposition. *They apprehend the question is to be at rest with the present General Court. After consenting to relinquish jurisdiction over Maine, upon terms satisfactory to Massachusetts Proper, her Senators and Representatives can feel on her account no interest in the degree of unanimity with which it may be effected, and no desire to procrastinate the event from selfish considerations.*

The committee, therefore, have endeavored to discern the course which it is incumbent on the Legislature to pursue, through respect to its own dignity and consistency, and to the claims of justice and equity from the respective parties in the District of Maine, coming before them as a tribunal which has once decided their cause."

After a careful and thorough discussion of this matter, the committee add:—

"To provide now for a new convention, would be precipitancy, haste, and hostile to all wise and temperate counsels. * * *

The public attention has been roused and attracted to the great question; arguments on both sides will have become familiar (before another political year), truth will be separated from fallacy, men's judgments will be cleared, and their passions calmed, and both parties, being satisfied that no prejudice can arise from delay, will await the event of things with that mutual forbearance which becomes those who are in any event destined to remain fellow-citizens."

Liberal quotations have been made from the report of the committee of 1816, and plenary evidence from numberless other sources might be adduced, to show how far the conduct and motives of the statesmen and legislators who spoke and acted for Massachusetts at that time, on this important subject, were raised above the influence of the narrow personal considerations which have sometimes been imputed to them by persons in recent times, who apparently possess a very imperfect knowledge of the history of the subject. The Legislature, adopting the recommendation of the committee, declared the action of the Brunswick convention in framing a constitution unauthorized and invalid, and

declined to again submit the question of separation to a popular vote, which would have been the third time during the same political year. The soundness of the reasons set forth in the report of the committee of which Mr. Otis was chairman, and the wisdom of the Legislative action in compliance with the recommendations of the report, cannot now be questioned by any intelligent and fair-minded student of the political and civil history of the two States. The discussions between the friends and opponents of separation, in the District, which preceded and attended the popular vote upon the subject in the early part of the year 1816, and the subsequent choice of delegates to the Brunswick convention, partook largely of a party character, the two political parties of that day having been arrayed against each other on this question. And there were other topics, not connected with party politics, which entered into the general question, and tended still further to inflame the debates before the people, and to divert the attention from the real merits of the main question. And thus was created a state of public feeling under whose influence it was hardly possible for men to exercise a calm and unprejudiced judgment requisite to so grave a subject as the separation of a sovereign State, and the formation of a new and independent Commonwealth.

There was a manifest necessity for a pause in the strife, to allow time for the passions to grow calm, as the committee say in their report, and to compel the contestants "to wait the event of things with that mutual forbearance which becomes those who are destined to remain fellow-citizens." The wisdom of all this became clear in the light of subsequent transactions, for before the subject came again before the people and Legislature for action, and, as it proved, final action, the whole country had passed into "that era of good feeling" under the Munroe administration, which blotted out the sharp dividing lines between the Federal and Democratic or Republican parties, so that when the discussion of

the question of separation was renewed, men of all parties were found acting together on each side of the great question, which had outlived a whole generation of men, and was now to be decided upon its merits, and not according to its effect upon party or merely local interests.

After the Legislature, by its resolve of December, 1816, declared the work of the Brunswick convention unauthorized and invalid, the public discussion of the subject was suspended for a time.

It was renewed again at a meeting of the members of the Legislature from Maine, held in Boston, February, 1818. But nothing effectual was done till the session of the Legislature, January, 1819. Of the representatives from Maine at that session, one hundred and twenty-five were in favor of separation, and only twenty-five opposed to it. About one hundred petitions were presented to the Legislature at this time, and after due consideration, the Act of June 20, 1819, authorizing separation upon terms similar to those contained in the Act before cited, was passed by a large majority.

The preamble to the Act recites that "it has been represented that a majority of the people of the District desire separation."

If the popular majority in favor of separation upon the conditions named in the Act, was found to be not less than fifteen hundred, the Governor was to issue his proclamation calling on the people of the District to elect delegates to a constitutional convention. The convention was to meet the second Monday of October, 1819, at Portland, and to apply to Congress for its assent to the admission of the new State into the Union before the last day of January, 1820. The constitution was to be submitted to the people for their ratification. The committee of the Executive Council appointed to examine the return of votes on the adoption of the aforesaid Act of separation, reported August 24, 1819, the whole number of votes returned 24,233. In favor of sepa-

ration upon the conditions of the Act, 17,091; against it, 7,132. The proclamation of Governor John Brooks announcing the result was issued the same day. The convention to frame the constitution for the new State, met October 11, 1819.

The committee selected to prepare an address to the people of Maine, to accompany the constitution, submitted their report October 27, 1819. In their address, they say: "The constitution of Massachusetts, venerable as the work of the fathers of the Revolution, endeared to the people by many associations, and replete with the soundest principles of liberty and government, has in forty years' experience proved inconvenient and defective in some few of its provisions. Assuming that instrument for a basis, the convention proceeded to frame a constitution for the 'State of Maine, deviating in those cases only where experience of this and of other States in the Union seemed to justify and require it.'" And the committee conclude by saying: "Such, fellow-citizens, are the principal provisions in the constitution submitted to you by your delegates, which embrace the material variances from the constitution under which *you have so long and happily lived.*"

The constitution was adopted by the people, and the State, by Act of Congress of March 4, 1820, was admitted into the Union, and became an independent State March 16, 1820. There was considerable delay on the part of Congress in admitting the State, by reason of the complication of this question with that of admitting Missouri. The South, true to its traditional policy, was unwilling that a free State should be added to the Union until they were sure of another slave State, to preserve the balance in favor of that insolent and domineering power of wrong and eternal bondage against right and freedom.

In consequence of this delay on the part of Congress, the Legislature passed an Act in addition to the Act of separation, to provide for the contingency of Congress not having

given its assent to the admission of Maine before the first Monday of April, 1820.

One of the objects in preparing this paper has been to show that the conduct of Massachusetts towards Maine during the entire period covered by the agitation of the question of separation, was magnanimous, and that it was so considered by Maine; and, moreover, that the question was at all times regarded by the government and people of Massachusetts Proper, as one to be settled by the people of Maine, and that whenever it was ascertained that a clear and permanent majority of that people were in favor of separation, Massachusetts stood ready to part company, though reluctantly, yet with the same amity and friendship which had characterized her union with the District for nearly one hundred years.

Some further evidence of these facts will now be submitted. The committee of the Legislature to whom the subject was referred in 1819, and of which Josiah Quincy was chairman, say, in their report accompanying the Act of separation of that year, that "the proceedings of former Legislatures have encouraged the opinion that Massachusetts would not withhold her consent to a separation, on just and equitable conditions, whenever it shall appear to be the wish of a decided majority. The opinion has long prevailed in all parts of the commonwealth that at some time the separation must take place, and should a decided majority in its favor be obtained, the committee rejoice in the belief, that the two great branches of the commonwealth may now part in that harmony with which they have ever been favored, that the most friendly intercourse will continue between them, and that they and their posterity will cherish the remembrance of our long and happy union."

The newspapers of the period, published in various parts of the commonwealth, abound in the expression of similar sentiments.

"The people of Maine," says the *Massachusetts Spy* of

June 16, 1819, "ought to be permitted to form an independent State if *they* wish it, whether the people of Massachusetts Proper would or would not prefer to have it otherwise." The same paper, under date of June 30, 1819, contains the following article, taken from a paper published in Boston:

"The great question of the division of Massachusetts into two separate sovereignties is now before the Legislature, and will probably be soon determined. We have avoided entering at all into the discussion, though our feelings are deeply, and our impressions strongly, averse to this project.

If the people of Maine are desirous of it, we do not wish to throw any obstacle in the way of their gratification. We believe, too, this sentiment is generally felt in Massachusetts. The great and perhaps only objection we have heard made, arises from a doubt held by some persons, and they, too, men entitled to respect, whether the Legislature is competent to a decision upon the subject, or whether the question must not be referred to the decision of the whole people.

Have the delegates of the people in our Legislature a right to modify the sovereignty of their constituents, or, in other words, have they the right of legislating over the sovereignty to which they are subordinate, and by which they are constituted?"

This is a very interesting question, and one which would very naturally arise in the discussion of a proposition to divide a sovereign State, and at one time it was proposed in the Legislature to submit the question of separation to the people of the whole State, instead of allowing so important a question, affecting the whole, to be determined by the votes of only one part of the State. But the proposition met with little favor, and was not adopted. In discussing the subject of sovereignty, Mr. Madison affirms, that "Whatever be the hypothesis of the origin of the *lex majoris partis*, it is evident that it operates as a plenary substitute of the will of the majority of the society for the will of the whole society; and that the sovereignty of the society as vested in and exercised by the majority, may do anything that could be rightfully done by the unanimous concurrence of the members," and then adds: "The majority has not only

naturalized, admitted into social compact again, but has divided the sovereignty of the society by actually dividing the society itself into distinct societies, equally sovereign. Of this operation we have before us examples in the separation of Kentucky from Virginia, and Maine from Massachusetts;” and to these we may now add the separation of West Virginia from the other part of the “Old Dominion.” In the ready acquiescence of Massachusetts Proper, in this extreme right of a part to decide a most important question for the whole of the society, may be seen additional evidence of her liberality in according to Maine every possible right the latter could claim.

The *Columbian Centinel*, of August 7, 1819, a leading paper in Boston, declared :

“The policy of Massachusetts for thirty years has been to consider this an affair (the separation) to be settled by the people of Maine for themselves. Every legislative proceeding during that period has been founded on that policy. The U. S. laws have been conformed to it; in short it has, by every man, woman and child in the State, been considered as an axiom, that the connection of Maine with Massachusetts was but temporary, and that whenever the former should determine for herself that her population and resources would justify the measure, she might depart with the blessing of the parent State following her.”

An entry in the diary of John Q. Adams, under date of October 8, 1819, possesses interest in this connection. He says :

“At one, I went with Joseph Hall and Gen. Sumner and dined with Gov. Brooks at Medford. There was no other company. Soon after dinner Hall and Sumner left the table to go and pay a visit to Mr. Bigelow, speaker of the House of Representatives of the Commonwealth. The Governor, when we were left alone, began by asking my opinion with regard to the separation of the District of Maine from the State. I gave it to him without reserve that it was an event much to be lamented, as affecting the importance of the State as a member of the Union, but quite unavoidable from the moment that it became the wish of the majority of the people of the District.”

Extracts from the journals of the day, and from other

authentic sources, could be indefinitely multiplied, accumulating evidence of the friendly and generous spirit with which the discussion of separation, and the adoption of measures for its final consummation were conducted, on the part of Massachusetts, but only one other will here be added to the foregoing. Hon. William King, a conspicuous actor in the preliminary measures for the organization of the new State, and who was president of the convention that framed the constitution for the State, and was afterwards chosen its first Governor, said in his first message as Governor :

“It is a source of much satisfaction to reflect that the measures adopted for its (the separation) accomplishment have effected the object in the most friendly manner. A great and powerful commonwealth voluntarily yielding up her jurisdiction over a large portion of her citizens and territory, over which she had undisputed and rightful sovereignty,—those citizens peaceably and quietly forming themselves into a new and independent State—these are events which constitute a memorable era in our history.

In the division of the public property, although a large majority of the legislative body which passed that Act was constituted of members from Massachusetts Proper, who thus had it in their power to dictate the terms, the principles of division are so equitable and just that they have received the general approbation. By this correct and wise course of policy, the executive and legislative departments of the government have laid the foundations of a lasting harmony between the two States.”

Such, very briefly told, is the history of the union and separation of Massachusetts and Maine, and such the actions and sentiments of the great and wise men who gave character and direction to the public affairs of these two States sixty years ago. He who should now attempt to pervert that history, or who should seek to disturb the harmony resting on the foundations so wisely laid by our fathers, could hardly hope to escape the just judgment of being regarded as the enemy of both States.

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